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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|---------------------------|---------------------|------------------|
| 10/056,716 | 01/22/2002 | Sashikanth Chandrasekaran | 50277-1763 | 2140 |
| 43425 | 7590 | 10/18/2010 | | |
| HICKMAN PALERMO TRUONG & BECKER/ORACLE | | | EXAMINER | |
| 2055 GATEWAY PLACE | | | CHEN, TE Y | |
| SUITE 550 | | | ART UNIT | |
| SAN JOSE, CA 95110-1083 | | | PAPER NUMBER | |
| | | | 2161 | |
| | | | MAIL DATE | |
| | | | DELIVERY MODE | |
| | | | 10/18/2010 | |
| | | | PAPER | |

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SASHIKANTH CHANDRASEKARAN and
ROGER J. BAMFORD

Appeal 2009-005258
Application 10/056,716
Technology Center 2100

Before JEAN R. HOMERE, JAY P. LUCAS, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 31-44². We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

According to Appellants, the invention relates to lock management, and “efficiently resolving contention for locks on resources” (Spec. 1:4-5).

Claim 31 is illustrative:

31. A method, the method comprising the steps of:

a requester transmitting to a lock management system a request for a certain lock on a first resource;

said lock management system denying said request based on a blocking condition that, while in effect, said lock management system does grant a request for a lock on a second resource different than said first resource;

said requester receiving from said lock management system a response that (1) denies said request for a certain lock on a first resource and (2) includes data that identifies the second resource; and

said requester determining said blocking condition is no longer in effect by performing certain steps that include:

said requester transmitting to said lock management system a request for a lock on said second resource; and

² In the Appeal Brief, Appellants acknowledge that claims 1-7, 8-15, and 23-30 were canceled, but fail to note that claims 16-22 were also canceled (*see* App. Br. 1; *see also* Final Rej. 2).

said requester receiving from said lock management system a response that grants

said request for said lock on said second resource.

Rejections

R1: Claims 31-44 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

R2: Claims 31-33, 36-40 and 43-44 stand rejected under 35 U.S.C. § 102(b), as being anticipated by Johnson (US 5,721,943, Feb. 24, 1998).

R3: Claims 34-35 and 41-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Varma (US 6,336,134 B1, Jan. 1, 2002).

FINDINGS OF FACT (FF)

Johnson Reference

1a. Johnson discloses: “Operation 112 checks whether a rule entity is locked” (col. 7, ll. 18-19).

1b. Johnson disclose that “[t]emp locks are used by the system to delay processing of other lock requests for the same rule until the current lock request is resolved” (col. 7, ll. 19-21.)

1c. Johnson discloses:

If the condition was ‘notify’ in block 122, early notify routines are executed in step 124, and activity is suspended until all replies are received in step 126. If all replies are ‘grant’ in the condition detected step 128, a record is made in step 130.

Otherwise, operation 134 sets the request to 'DENIED' and proceeds to step 136. (col. 7, ll. 36-41).

1d. Johnson discloses:

Early notification means the lock holder wants the lock request refused until successful negotiation occurs Successful negotiation means that the conflict is removed. Either the original lock holding [the] program gave up the lock or changed it to a nonconflicting lock with the lock requested by the requestor program, or the requestor program changed the lock requested to a lock which did not conflict with the lock held by [the] lock holding program. The result of a successful negotiation is that all replies to the CCMDs are 'grant'. Late notification means the holder only wants to know that the lock was granted, but does not want to block the lock. (col. 7, ll. 41-53).

1e. Johnson discloses:

Next, if step 136 determines that a temp lock was recorded in step 118, that record is deleted in operation 138. Operation 140 checks whether late notify routines have been recorded as a result of other locks having been granted for the same rule entity. If so they are executed in step 142. The request result is returned in step 144 and operation 146 ends the process. (col. 7, l. 65 - col. 8, l. 4).

PRINCIPLES OF LAW

Definiteness

Claims must "particularly point out and distinctly claim the subject matter which the applicant regards as his invention." 35 U.S.C. § 112, ¶ 2. The test for definiteness under this standard is whether "those skilled in the art would understand what is claimed when the claim is read in light of the

specification.” *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986) (citations omitted).

Claim Construction

Claims must “particularly point out . . . the subject matter which the applicant regards as his invention.” 35 U.S.C. § 112, second paragraph. “[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). During patent examination, claims are given their broadest reasonable interpretation in light of the specification as it would be interpreted by skilled artisans. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc) (citations omitted).

Anticipation

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992)).

Obviousness

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). If the Examiner’s burden is met, the burden then shifts to the Appellants to overcome the prima facie case with argument and/or evidence. Obviousness

is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

ANALYSIS

Claims 31-44

Issue 1: Did the Examiner err in finding that references to the term “a certain lock,” as set forth in representative claim 31, renders claim 31 indefinite?

The Examiner finds that “the claimed ‘a certain lock’ at line 8 of claim 31 and line 10 of claim 38 is indefinite,” as “there are more than one ‘a certain lock’ claimed ...” (Ans. 3-4). Further, the Examiner indicates that it is not clear as to what the claimed “a certain lock” is referring (Ans. 4).

Appellants contend that “those of ordinary skill in [the] art recognize that the term ‘certain’ is being used in the well known sense[,] as an adjective that means ‘definite or particular, but not named or specified’” (App. Br. 4).

With regard to the use of the term “a certain lock,” we find that Appellants are not required to claim any particular lock. However, when a claim limitation is written so broadly, as it is here, the Examiner can construe the same as broadly as is reasonable in light of the Specification. While overly broad, we cannot say that the claimed “a certain lock” on a resource is indefinite, as this limitation would read on *any lock* on a resource.

Accordingly, we find that Appellants have shown error in the Examiner's §112, second paragraph rejection of representative claim 31. Independent claim 38 is commensurate in scope with representative claim 31, as to the argued limitation. Claims 32-37 and claims 39-44, depend from independent claims 31 and 38, respectively.

Accordingly, we reverse the Examiner's §112, second paragraph, rejection of (1) independent claims 31 and 38, and (2) claims 32-37 and 39-44, which stand therewith.

Claims 31-44

Issue 2: Did the Examiner err in finding that the prior art teaches "said lock management system denying said request based on a blocking condition that, while in effect, said lock management system does grant a request for a lock on a second resource different than said first resource," as set forth in claim 31?

The Examiner finds that Johnson discloses a lock management system (*i.e.*, workflow manager) that resolves "the claimed block condition (or a conflict) raised due to lock requests issued from two different user programs for the same first resource (or the same section of control data) when one of the request[s] was denied" (Ans. 10-11). Further, the Examiner finds that "when the block condition [or a conflict, or a temp lock is in effect ...] is raised, a response is sent to users via the early notification processing" (Ans. 11).

Appellants contend "claims 31 and 38 require a response for denying a first lock request because of a blocking condition, where the response

includes data that identifies a second resource for which a second lock may be requested to determine whether the blocking condition is no longer in effect,” and the cited art fails to disclose this feature (App. Br. 4). We agree with Appellants.

While Johnson discloses denying a request for a first resource based on a blocking condition (*e.g.*, a temp lock) (*see* FFs 1a-1c), Johnson fails to disclose granting a request for a *second* resource while the blocking condition is in effect. Instead, Johnson merely delays processing of the other requests until the current lock request is resolved. (*see* FF 1b). As such, Johnson does not grant a request for a lock on a second resource different than the first resource, after denying a request based on a blocking condition.

In other words, when there is a temp lock, Johnson, for example, suspends the process until the temp lock (*i.e.*, blocking condition is removed), or in the case of a “notify” condition, all replies are received (*see* FF 1c). Then, Johnson either grants the request for a lock on the rule entity or denies the request for a lock on that same rule entity (*see* FF 1c). Similarly, with the “early notification” and “late notification” conditions, a lock is granted when there is *no* blocking condition or conflict (*see* FF 1d). Thus, the “early notification” and “late notification” conditions also fail to disclose granting a request for *a second resource* while the blocking condition is in effect, as recited in claim 31.

There is no discussion, in the portions of Johnson cited by the Examiner, regarding granting a request for *a second resource*, while the blocking condition is in effect, as recited in claim 31. Therefore, we find

that the Examiner has not set forth a sufficient initial showing of anticipation, and we find that Appellants have shown error in the Examiner's rejection of representative claim 31. Independent claim 38 is commensurate in scope with representative claim 31, as to the argued limitations. Claims 32-33, 36-37, 39-40, and 43-44, depend from independent claims 31 and 38, respectively. Accordingly, we reverse the Examiner's §102 (b) rejection of independent claims 31 and 38, and claims 32-33, 36-37, 39-40, and 43-44 which stand therewith.

The Examiner rejected claims 34-35 and 41-42 under §103 (a). Claims 34-35 and 41-42 depend from independent claims 31 and 38, respectively. Accordingly, we reverse the Examiner's §103 (a), rejection of claims 34-35 and 41-42 for the reasons discussed above, with respect to independent claims 31 and 38.

DECISION

The Examiner's rejection of claims 31-44 under 35 U.S.C. § 112, second paragraph, as being indefinite is reversed.

The Examiner's rejection of claims 31-33, 36-40 and 43-44 under 35 U.S.C. § 102(b), as being anticipated by Johnson, is reversed.

The Examiner's rejection of claims 34-35 and 41-42 under 35 U.S.C. § 103(a), as being unpatentable over Johnson in view of Varma, is reversed.

REVERSED

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